

1 Q. Would you read on Page 21 the first full
2 paragraph under the caption "Feedback #151". Just
3 read it to yourself because I'm going to ask you some
4 questions about it.

5 A. Okay.

6 Q. Dr. Cherry, in your Declaration, on the
7 second page of the Declaration as you have already
8 pointed out, third line from the bottom, you state "I
9 cannot even find my name in the program synopses."

10 You agree, do you not, that your name does
11 appear in the programming synopses?

12 A. Yes, I do. It does appear and it's correct
13 in its -

14 Q. It what, sir?

15 A. It is correct in its - in the way it
16 identifies me.

17 Q. Did you read all of Trinity Exhibit 4
18 before you signed your Declaration?

19 A. What I would call -- I didn't read it in
20 great detail. What I would call it is I more or less
21 went through the things in terms of homelessness,
22 looking for it, but apparently I missed that
23 paragraph of that page. My wife was looking through
24 it and missed it as well.

25 Q. Your wife what?

1 A. My wife was looking through it and missed
2 it as well.

3 Q. Did you read all of Trinity Exhibit 3, the
4 AIDS synopses before signing your Declaration?

5 A. Again, I didn't read them in great detail.
6 I perused them in terms of the content, but I didn't
7 read them in great detail as if I were preparing for
8 a test.

9 Q. Would you look at your Declaration, the
10 last page, the signature page?

11 A. Okay.

12 Q. I call your attention to the second line
13 where --

14 A. Oh, yes.

15 Q. An "a" has been inserted between the words
16 has and biased.

17 A. That was me.

18 Q. Is that your handwriting?

19 A. Yes.

20 Q. You made that correction on the typed page
21 before you signed it?

22 A. Yes.

23 Q. Now, turn back to the first page of the
24 Declaration, if you would.

25 Is this your typing or typing that was done

1 by someone on your behalf or was it something that
2 you received from Mr. Honig or Mr. Shanks?

3 A. I typed this up and sent it in. I don't
4 think it was in this format. I'm almost positive and
5 it wasn't in this type face, so I believe it was
6 typed by someone else, but I compared it with
7 my - the Declaration I sent in and it was correct
8 except for the letter "a", I thought.

9 Q. Where is the Declaration that you sent in?
10 Do you have a copy of that?

11 A. It's on my computer.

12 Q. On the computer?

13 A. Yes, I keep it on a computer.

14 Q. And it is still there?

15 A. Yes.

16 Q. And in what respects, if you recall, does
17 it differ from what I'm looking at?

18 A. Other than the letter "a", I thought I had
19 an "a" in the one I sent in, but maybe I didn't.

20 Q. Is it your testimony now that the document
21 headed Declaration of Dr. Andrew Cherry was indeed
22 typed by you on your computer?

23 A. I typed a Declaration.

24 Q. Yes.

25 A. This Declaration here has apparently - in

1 my belief, has been typed by someone else from my
2 original because word for word it looks like the
3 one -- I checked it on my computer. It looked like
4 the same one that I had sent in.

5 MR. MULLIN: Counsel, we will not stop now,
6 obviously, but I would like a printout of what
7 Dr. Cherry has on his computer.

8 I think it is responsive to the subpoena.
9 This is a problem we never faced a few years ago
10 when something exists on a disc and not yet on a
11 piece of paper.

12 Q. (By Mr. Mullin) Dr. Cherry, turning again
13 to Page 21 of Exhibit 4 where your name appears, the
14 indication is that was a program that was broadcast
15 on October 19, 1989 which, of course, is almost four
16 years ago.

17 A. Uh-huh.

18 Q. Do you have a recollection now, today, of
19 the name of the moderator of the program?

20 A. No, I do not.

21 Q. Do you have a recollection --

22 A. I mean, I do from reading that piece, but
23 until I saw the piece, I couldn't recognize it.

24 Q. Until you saw the printed synopsis, did you
25 have a recollection of the other participants in the

1 program?

2 A. Dr. Delevoe.

3 Q. You knew Dr. Delevoe?

4 A. I can't remember exactly how to pronounce
5 the name. I haven't seen her in quite a few years,
6 but I knew her for years off and on.

7 Q. Did you have a recollection that the
8 moderator of the program was African American?

9 A. Yes.

10 Q. And is Dr. Delevoe African American?

11 A. Yes.

12 Q. And the participant on the program was a
13 white man?

14 A. I believe an Evangelist preacher.

15 Q. Do you recall his name?

16 A. No, I don't.

17 Q. Is it fair to say that you do not recall as
18 we sit hear today what you said on that program and
19 what any of them said with any degree of specificity?

20 A. Oh, I can tell you in some specificity some
21 of the things I said.

22 Q. Do you recall the program as a whole?

23 A. Yes, I do.

24 Q. From beginning to end?

25 A. Yes, I do. Even the studio.

1 Q. I'm going to ask you if you would look,
2 Doctor, at what I will represent to you is a
3 videotape of the program and my only purpose in this
4 is not to introduce the videotape into evidence
5 because this is not the time for that, but to ask
6 that you look at it and then tell me if it refreshes
7 your recollection as to what occurred on that
8 program, what you said and what the others said and
9 the monitor is over here.

10 Is that a comfortable viewing spot?

11 A. Sure.

12 MS. ROBINSON: Counsel, how long is the
13 piece?

14 THE WITNESS: Probably about twenty
15 minutes.

16 (Whereupon, the videotape was played.)

17 A. This isn't the one they broadcast. This is
18 different than the one - from the one they broadcast.
19 It's not as slick. It's not as cut.

20 Q. What were you saying?

21 A. It's not as slick. It's cut a little
22 differently than the one they broadcast.

23 Q. What?

24 A. The tape here.

25 Q. The tape within the program?

1 A. Yeah. It looks like part of the
2 program -- It looks like part of the program is
3 missing.

4 Q. Is there anything that you've seen so far
5 that you recollect was not on the program when you
6 were on it?

7 A. I'm not sure of some of the beginning of
8 the clip. I don't remember seeing it. I don't
9 remember seeing it. It doesn't look like they edited
10 as well for this, but the one that came off the
11 television was quite well done. It wasn't as poorly
12 edited.

13 Q. I'm going to put it on again.

14 (Whereupon, the videotape continued being
15 played.)

16 Q. (By Mr. Mullin) Dr. Cherry, having
17 viewed the tape, it does refresh your recollection,
18 does it not, as to the contents of that program, what
19 you said and what others said?

20 A. Yes, it does.

21 Q. You would agree now, would you not, Dr.
22 Cherry, that at no point in that program did anyone
23 ask you for a diagnosis and a treatment plan using
24 those words or words to that effect?

25 A. They did not use those words, but that's

1 what they asked. In effect, that's what was asked of
2 me.

3 Q. And in effect --

4 A. And in effect, that was my response.

5 Q. In effect, you responded and in fact you
6 responded, did you not, that the white man on the
7 tape seemed to suffer from a severe depression?

8 A. Yes.

9 Q. And you do recall, do you not, that in that
10 response you said that one of the ways in which he
11 could be helped or people like him could be helped
12 was for the churches to get more into the drug
13 rehabilitation?

14 A. Yes.

15 Q. You said that?

16 A. Yes.

17 Q. And at another point in the program you
18 said, did you not, that the church could consider
19 providing a safety net and could consider providing
20 bathhouses or bathing facilities?

21 A. Yes.

22 Q. And in the film clip that was shown on the
23 program, there were both black men and white men
24 shown, were there not?

25 A. Yes.

1 Q. And the film clip showed, did it not,
2 people being given haircuts?

3 A. Yes.

4 Q. It showed people receiving what appeared to
5 be medical attention at least insofar as using a
6 stethoscope could be regarded as medical attention?

7 A. And tapping on the back.

8 Q. Which is what a doctor does sometimes when
9 he's using a stethoscope?

10 A. Uh-huh.

11 Q. And it showed people being fed?

12 A. Yes.

13 Q. Do you now agree that the program as a
14 whole, not just the film clip in the program, but the
15 program as a whole including the film clip did not
16 say or imply that people do not need social services?

17 A. No.

18 Q. You don't agree with that?

19 A. Not necessarily.

20 Q. Let's clarify that. You said on the
21 program, did you not, that people do need social
22 services?

23 A. I did. As a matter of fact, on that
24 program if you will notice it, I was the only one on
25 that program that was trying to elevate the

1 discussion to a level of public information.

2 Q. But you did do that, didn't you?

3 A. Oh, I did.

4 Q. Is it your estimate, having just viewed a
5 tape of the program, that there were probably more
6 words spoken on the program by you than by either of
7 the other two participants?

8 A. I have no way of gauging that.

9 Q. You did get to say quite a bit on the
10 program though, did you not?

11 A. I got to speak on the program. Again, I
12 can't gauge that. I have no way of
13 measuring - measuring that.

14 Q. Didn't Dr. Delevoe talk about providing
15 social services and services other than religious
16 services?

17 A. I believe she mentioned that in passing at
18 one point.

19 Q. No one on the program said that the problem
20 with the homeless was that they were not Christians,
21 did they? You didn't hear that?

22 A. You know, this is interesting because some
23 of this - when I watched the program, that's why I'm
24 not sure now, because some things were said during
25 intermission and during the pre-program that I may

1 have responded to in the document that I didn't
2 notice here, either some was cut out, which I can't
3 tell you one way or the other, or we - there was a
4 discussion before or during the thing.

5 Q. Do you have any recollection now that on
6 the program as it went on the air there was any
7 reference or suggestion that the cause of
8 homelessness was the fact of people not being
9 Christians?

10 A. You know, the way you say that is that if
11 those people accept Christ as their savior, then
12 they're going to be all right.

13 Q. Was there any reference to Christ being
14 accepted as a savior?

15 A. Not exactly in those words, but it's
16 implied that if you do that, you're going to be all
17 right as a homeless person.

18 Q. Was there any -- In the clip that you just
19 saw, was there the slightest suggestion of that?

20 A. Yes, it was implied.

21 Q. It was implied?

22 A. Yes.

23 Q. Did you --

24 A. By implying that you would be okay if you
25 did do all these things that they were suggesting in

1 terms of --

2 Q. In fact, wasn't there criticism of churches
3 in this program by both of the other participants for
4 not doing enough?

5 A. I don't know if you -- I would have
6 referred to it as criticism. I would refer to it as
7 them making a statement that the churches were not
8 doing enough or could do more.

9 The interesting thing is that the gentleman
10 was not very well informed about what the churches
11 were doing in this community.

12 Q. But you saw nothing on the film clip, did
13 you, that indicated that homeless people do not need
14 social service programming?

15 A. I saw -- I heard -- I did not hear them say
16 the words that they do not need social services. I
17 did not hear those words.

18 Q. Did you hear the words that they do not
19 need medications?

20 A. Well, I'm the only one that mentioned
21 medications, so I guess my words were that sometimes
22 a mild medication, I think, would be appropriate.

23 Q. And isn't it a fact that there is no point
24 in that program where you pointed out that virtually
25 all the homeless were Christian, ex-members of

1 churches and synagogues, and that reading the bible
2 was their main source of diversion?

3 A. That's where I'm not clear. I didn't see
4 it on this. I don't know if I said it after the
5 camera was off or if I said it during that period,
6 but I did make that statement to those people and I
7 do not know when that was and I'm a little surprised
8 that was not on the film clip, but I can't tell you
9 where it happened.

10 Q. You can't tell me what?

11 A. I can't tell you where that happened in the
12 process and that it wasn't on the air. I can tell
13 you that I made that statement to those people.

14 Q. Did you find any of the other participants
15 in that program, either the host or either of the
16 other commentators, stating that you were an example
17 of an expert who had the wrong answers and probably
18 contributed to the problem of homelessness?

19 A. It's interesting that when you're asked
20 in - to specify what is wrong with a homeless person
21 that you've seen a twenty second clip on, that you're
22 expected to - being a professional - to give some
23 type of simple answer.

24 I felt very put out that they put me in
25 that position. I had not had people put me in that

1 position then or since.

2 Q. Isn't it a fact, Dr. Cherry, that when you
3 responded with your impressions about the man in the
4 film clip, the question you were asked was this, Dr.
5 Cherry, that person who like the man said, hey, my
6 wife was the center of my life. I lost her; whatever
7 the reason now he is out on the streets. That person
8 should be able to rebound if he is not afflicted by
9 drugs or other problems such as that. Why is it that
10 they get thrown out to this and how can we help them?

11 Do you now recall it was an answer to that
12 question how can we help them that you proceeded to
13 respond with your impressions about the man on the
14 film clip?

15 A. Uh-huh.

16 Q. That's the question you were asked?

17 A. Yes. And in fact, that would have been an
18 unfair question.

19 Q. How we can help them would be unfair?

20 A. How -- The question was prefaced by a
21 discussion of the gentleman in the film clip and I
22 would point out that the minister Evangelist sitting
23 on the stage knew the aftermath of what this
24 gentleman had - happened to this gentleman a year or
25 so or six months later, whatever the time period was

1 later. Nobody had informed me of this.

2 To me, that's setting me up because if I
3 would have said, oh, you know, this guy can't be
4 helped, you know, it's going to take a long time,
5 we're going to have to re-educate him, which it may
6 all be true, I don't know enough not to be able to
7 say that other than my experience would suggest that
8 we can help the man quicker, not knowing this, and
9 what these other people - the minister and the host
10 knew put me at a disadvantage.

11 Q. Was there anything that you said on that
12 program that you now think was incorrect or wrong?

13 A. No. Because I was speaking to other
14 professionals like myself that knew what I was
15 talking about. I wasn't necessarily, as you noticed,
16 responding only to the questions that were being
17 asked.

18 Q. And is the reason why you say that you felt
19 you were set up was because the other participant in
20 the program, Mr. Brown, as it turned out, knew the
21 subsequent history of a man who was shown on the film
22 clip and you did not, is that --

23 A. Who I was asked about.

24 Q. And what you were asked about was how can
25 we help them?

1 A. No. What I was asked about is
2 considering - read the question again and you'll see
3 the statement about the man that we were just
4 referring to.

5 Q. The question was, Host: But I am also
6 concerned that we - how do we get that person or how
7 do we go about helping, Dr. Cherry, that person who
8 like the man said, hey, my wife was the center of my
9 life.

10 A. And that was the statement that I was
11 responding to because the way I was perceiving it
12 when I was on that program is he was saying to me how
13 can you deal with that particular type of situation
14 and that - if he hadn't had said that, I would have
15 gone and taken a different route.

16 My beginning answer to that question was to
17 try without any information other than what I had
18 seen in just a matter of ten seconds to try to relate
19 that to other homeless men in that situation that I
20 had seen over the last ten years or eight years or
21 nine years and then to try to respond intelligently.

22 Q. And you responded that drug rehabilitation
23 was a desirable thing?

24 A. Yes.

25 Q. You also --

1 A. Of a number of things I responded to.

2 Q. Yes.

3 A. That wasn't my first response, was it?

4 Q. Well, your first response was that the man
5 appeared to be suffering from a depression.

6 A. That's right. Because my impression of
7 what was going on was this man was putting me on the
8 spot and asking me what do you do about this
9 individual.

10 So although I didn't want to do it, I felt
11 that I could and I should address it even though I
12 was putting myself in a bad situation because I did
13 not know enough about the individual, but I did go
14 ahead and stick my neck out.

15 However, I went on to try to expand on the
16 question as it was in general and what can you do to
17 help the homeless rather than the individual.

18 Q. Dr. Cherry, I'm going to read you something
19 and my question is going to be, having viewed the
20 videotape, does this now seem to you to be a fair and
21 accurate recounting of what you said on the program
22 at the point we're talking about, "Now, he seemed to
23 suffer from a severe depression. Without having
24 talked to the man and not having really any time to
25 view him, he did seem to suffer from severe

1 depression.

2 "Very common among the homeless this severe
3 depression. I would be depressed if I was in that
4 situation.

5 "How do you help people? Well, I think as
6 Dr. Delevoe said, I think that one of the ways is
7 that the churches to get more into the drug rehab.
8 Drug rehab. is really at a minimum all across this
9 country and there are not enough slots.

10 "This gentleman, I think if we had a
11 situation where there was some outreach for the
12 mental health to help this man, then some case
13 management to follow-up where this man would receive
14 a place to stay for awhile, and I don't know if two
15 months is enough for a lot of people, and I have to
16 think I would like to see him get a second and a
17 third and a fourth chance and good medical attention.

18 "But the churches could do something very
19 simple right now. One is they could start
20 bathhouses. We don't have bathhouses. These people
21 are arrested for bathing in the street. They could
22 open up where the homeless tend to cluster. They
23 could open up around these churches a bathhouse for
24 the people.

25 "They also need a cheap place to stay and

1 not a lot of people don't like to stay in shelters,
2 but they need a cheap place to stay not for two or
3 three or five days like most people, like most
4 shelters. I'm sorry, but extended periods like the
5 old flop house sort of thing but cheap enough that
6 people can afford it. A dollar or two dollars a
7 night for an extended period of time. The churches
8 could help with that.

9 "The meals, the meals are very difficult
10 for people that work. Although they are free meals
11 during the day, unless you do have a Miami Rescue
12 Mission, you don't get anything to eat when you get
13 off the job.

14 "They pay you all over this country you are
15 lucky if you do day labor to earn \$20 a day. They
16 pay you minimum wage. They charge you for a boloney
17 sandwich. And then they give you a check and make
18 you cash the check with them and they charge you for
19 cashing the check. You are lucky to wind up with \$20
20 a day. A hotel room at a very rundown hotel is going
21 to cost you \$15."

22 Would you agree that that's a fair
23 summation of what you said on the program?

24 A. I am sure glad I write better than I talk
25 under pressure.

1 Q. That's a fair recounting of what you said
2 on the program?

3 A. Yes. God, if I wrote like that --

4 Q. It's also true that you expressed
5 disagreement with another member of the program who
6 had suggested that the majority of the homeless were
7 men and that you responded that you believed a
8 majority were women or families?

9 A. It wasn't a belief of mine.

10 Q. What's that?

11 A. It was not a belief. It was the result of
12 an academic study, a survey that I had done in South
13 Florida over several years.

14 Q. And you responded in effect, did you not,
15 that there are more women and children or people in
16 families that are homeless than there are single men?

17 A. Yes.

18 Q. You also pointed out, did you not, that
19 there was certainly a need for services for men,
20 probably more than existed, but there may also have
21 been a greater need for services for women and
22 children?

23 A. Yes.

24 Q. You also pointed out, did you not, that
25 providing the facilities for cleanliness for the

1 homeless was extremely important?

2 A. Yes.

3 Q. How well do you know Dr. Delevoe who
4 appeared on the program with you?

5 A. I know her as a provider in Broward.

6 Q. A provider of what?

7 A. Of homeless services in Broward. A
8 religious based provider, I would call it.

9 Q. You agree she fills a useful function in
10 the Broward community?

11 A. I don't know that she's still doing this in
12 Broward right now. I'm not sure. I have not heard
13 from her in quite awhile.

14 Q. In 1989, it was your impression and belief
15 that she was providing a useful service to the
16 community?

17 A. Yes, yes. Struggling but --

18 Q. What was that?

19 A. She was struggling, but doing the best she
20 could.

21 Q. Well, everybody in this business of helping
22 the homeless is struggling, isn't that true?

23 A. There are some entrepreneurs that are doing
24 very well, but most of the providers are struggling.

25 Q. You also had occasion to say on the

1 program, did you not, that it was a misconception
2 that most of the homeless were criminals?

3 A. Yes.

4 Q. And you pointed out most of the homeless
5 was arrested, but the arrest was more often than not
6 for loitering or some such thing?

7 A. Yes, misdemeanors.

8 Q. Would you look at the first page of your
9 Declaration and I'm going to direct your attention
10 now to Exhibit Number 3, which is the AIDS exhibit.

11 Would you look at Page 2 of the Exhibit
12 Number 3, the live program, that is the program that
13 is shown under the column source with the capital
14 letter L, which in this context means it originated
15 at Channel 45 and did not come from a network.

16 A. I'm lost.

17 Q. Have you got it?

18 A. No.

19 Q. For May 13, 1988.

20 A. Okay. I see, source up here you're talking
21 about, okay.

22 Q. I'm directing your attention to the program
23 Miami Praise the Lord.

24 A. Right.

25 Q. Source L.

1 A. Uh-huh.

2 Q. On May 13, 1988.

3 A. Right.

4 Q. Now, you, of course, did not see that
5 program as you recall?

6 A. I don't know. I have to look. I can't
7 recall this. I know Dianne Scalise, so I may have
8 watched this.

9 Q. But you certainly read this paragraph, did
10 you not?

11 A. I'm reading it now. I'm refreshing my
12 memory. There was a lot of these. I've read it
13 again, yes.

14 Q. Do you see in the synopsis of that program
15 anything to support your statement that Channel 45
16 AIDS programming carries the subtle message that
17 Christians do not get AIDS, anything in that synopsis
18 to indicate that?

19 A. That's one synopsis, and I can't recall
20 watching this program, although I probably did
21 because this is when I was gearing up to -- No, I
22 wasn't gearing up yet for this. I wasn't doing my
23 study on AIDS prevention education at this time, but
24 when I started doing that particular study, I started
25 watching Channel 45 more often as well as the other

1 public service programming on the public as well as
2 the private channels.

3 Q. Dr. Cherry, I'm focusing on a paragraph in
4 your Declaration that begins with your statement that
5 you reviewed the Issues/Programs Lists which cover
6 the subjects of AIDS and poverty.

7 A. Right.

8 Q. Now, the Issues Programs List that covered
9 the subject of AIDS is Trinity Exhibit 3.

10 A. Uh-huh.

11 Q. And directing your attention to the L or
12 live programming --

13 A. Right.

14 Q. -- looking at the first one there, I ask
15 you specifically, isn't it a fact that there is
16 nothing in that synopsis that would justify or
17 support the statement that Christians don't get AIDS?

18 A. You know, taking a synopsis which is like
19 an abstract on a paper can be very misleading, but
20 this -- my criticism of this, having done a lot of
21 work in the terms of AIDS prevention education, is
22 that they're talking about one approach which is in
23 many situations that you'll see on Channel 45 the
24 only accepted approach to AIDS prevention which is
25 abstinence.

1 Q. Dr. Cherry, I'm focusing on the document.

2 A. Right.

3 Q. That your statement says you read and from
4 which, if I read your paragraph correctly, you drew a
5 conclusion?

6 A. That's right. Not only from this, but I
7 thought I was talking from these and my viewing of
8 Channel 45 over a number of years.

9 Q. Let me ask you, where in Trinity Exhibit 3,
10 if at all, do you find any justification for the
11 statement that appears on your Declaration "it's
12 safer to be white"?

13 A. Well, when you watch their programming --

14 Q. I'm asking where in Exhibit 3 do you find
15 that?

16 A. All we have here is the abstracts of the
17 programs that reminded me of the programs which I
18 viewed and the type of position that was taken by
19 those programs.

20 Now, I'm not going to be able to pull it
21 together for you because I didn't know that we were
22 only supposed to work off abstracts. I thought we
23 were supposed to work off our experience with Channel
24 45.

25 Q. You were sent the abstracts by Mr. --